

following the Merger Closing Date, SBC/Ameritech shall provide notice of such training and procedures to all Small CLECs certificated and operating in the SBC/Ameritech Service Area.

XI. Collocation Compliance

37. In the SBC/Ameritech Service Area, SBC/Ameritech shall provide collocation consistent with the Commission's First Report and Order in CC Docket No. 98-147, FCC No. 99-48 (released March 31, 1999) ("Collocation and Advanced Services Order").³⁵

38. Prior to the Merger Closing Date, SBC and Ameritech shall, in each of the SBC/Ameritech States, have filed a collocation tariff and/or offered amendments containing standard terms and conditions for collocation for inclusion in interconnection agreements under 47 U.S.C. § 252. Such tariffs and/or amendments shall contain all rates, terms, and conditions necessary to bring SBC/Ameritech's provision of collocation into compliance with the Commission's governing rules.³⁶

39. Prior to the Merger Closing Date, Ameritech and SBC shall retain one or more independent auditors acceptable to the Commission to perform an examination engagement and issue an attestation report resulting in a positive opinion (with exceptions noted) regarding whether the terms and conditions offered in tariffs and amendments to interconnection agreements, and the methods and procedures put in place by SBC and Ameritech to implement those terms and conditions, comply with the collocation requirements contained in the Collocation and Advanced Services Order.³⁷ The engagement shall be supervised by persons licensed to provide accounting services and shall be conducted in accordance with the relevant standards of the American Institute of Certified Public Accountants ("AICPA"). The attestation report shall be in substantially the form provided as Attachment B and shall be filed with the Secretary of the Commission, for the public record, no later than 10 days after the Merger

³⁵ We interpret this paragraph as requiring SBC/Ameritech to provide collocation pursuant to the Collocation and Advanced Services Order when such collocation is requested by a requesting carrier (e.g., cageless collocation in any unused space without escort requirements). In particular, as required by that Order, a method of collocation offered by SBC in one state (such as Texas) shall be made available by SBC/Ameritech in other SBC/Ameritech states where technically feasible.

³⁶ It is our interpretation that filing a collocation tariff and/or offering an amendment pursuant to this paragraph 38 does not necessarily satisfy SBC/Ameritech's obligation under paragraph 37 to provide collocation pursuant to the Collocation and Advanced Services Order. In particular, the offering of an amendment is not definitive as to whether SBC/Ameritech are in compliance with paragraph 37 – SBC/Ameritech must actually provide collocation (e.g., cageless collocation in any unused space without escort requirements) pursuant to the Collocation and Advanced Services Order.

³⁷ The Commission retains the authority to take whatever steps it deems necessary, at any time, to ensure SBC/Ameritech's compliance with its collocations obligations under the Act, and as detailed by the Commission in its various orders and decisions.

Closing Date. The Commission shall have access to working papers and supporting materials of the independent auditor, as provided below in Paragraph 40g.

40. Prior to the Merger Closing Date, Ameritech and SBC shall propose to the Chief of the Common Carrier Bureau an independent auditor to perform an examination engagement and issue an attestation report resulting in a positive opinion (with exceptions noted) regarding SBC/Ameritech's compliance with the Commission's collocation requirements, including but not limited to the Collocation and Advanced Services Order, for the first 240 days after the Merger Closing Date. The audit required by this Paragraph shall be in lieu of any other audit of SBC/Ameritech's compliance with the Commission's collocation requirements during the first 12 months after the Merger Closing Date that otherwise would be required under these Conditions. The independent auditor shall be acceptable to the Chief of the Common Carrier Bureau and shall not have been instrumental during the past 24 months in designing substantially all of the systems and processes under review in the audit, viewed as a whole. The engagement shall be supervised by persons licensed to provide accounting services and shall be conducted in accordance with the relevant standards of the AICPA. SBC/Ameritech shall engage the auditor within 15 days of the Bureau Chief's written acceptance of the proposed auditor. The independent auditor's report shall be prepared and submitted as follows:

a. Not later than 60 days after the Merger Closing Date, the independent auditor shall submit a preliminary audit program, including the proposed scope of the audit and the extent of compliance and substantive testing, to the Commission's Audit Staff ("Audit Staff"). The preliminary audit program shall be afforded confidential treatment in accordance with the Commission's normal processes and procedures. The independent auditor shall consult with the Audit Staff and SBC/Ameritech regarding changes to the preliminary audit program, but Commission approval of the requirements or changes thereto shall not be required.

b. During the course of the audit, the independent auditor shall inform the Audit Staff of any revisions to the audit program; notify the Audit Staff of any meetings with SBC/Ameritech in which audit findings are discussed; and consult with the Common Carrier Bureau regarding any accounting or rule interpretations necessary to complete the audit. The independent auditor shall notify SBC/Ameritech of any consultation with the Common Carrier Bureau regarding accounting or rule interpretations.

c. The independent auditor shall have access to books, records, and operations of SBC/Ameritech and its affiliates that are under the control of SBC/Ameritech and are necessary to fulfill the audit requirements of this Section. The independent auditor shall notify SBC/Ameritech's compliance officer of any inability to obtain such access. The auditor shall notify the Audit Staff if access is not timely provided after notification to the compliance officer.

d. The independent auditor may verify SBC/Ameritech's compliance with the collocation requirements through contacts with the Commission, state commissions, or SBC/Ameritech's wholesale customers, as deemed appropriate by the independent auditor.

e. Not later than 10 months after the Merger Closing Date, the independent auditor shall submit its final audit report to the Commission's Audit Staff. A copy of the report shall be publicly filed with the Secretary of the Commission.

f. The independent auditor's report shall include a discussion of the scope of the work conducted; a statement regarding SBC/Ameritech's compliance or non-compliance with the Commission's collocation rules; a statement regarding the sufficiency of SBC/Ameritech's methods, procedures, and internal controls for compliance with the Commission's collocation rules; and a description of any limitations imposed on the auditor in the course of its review by SBC/Ameritech or other circumstances that might affect the auditor's opinion.

g. For 24 months following submission of the final audit report, the Commission and state commissions in the SBC/Ameritech States shall have access to the working papers and supporting materials of the independent auditor at a location in Washington, D.C. that is selected by SBC/Ameritech and the independent auditor. Copying of the working papers and supporting materials by the Commission shall be allowed but shall be limited to copies required for the Commission to verify compliance with and enforce these Conditions. Any copies made by the Commission shall be returned to SBC/Ameritech by the Commission. The Commission's review of the working papers and supporting materials shall be kept confidential pursuant to the Commission's rules and procedures.³⁸ Prior to obtaining access to the working papers and supporting materials for review, state commissions shall enter into a protective agreement with the Chief of the Common Carrier Bureau and SBC/Ameritech under which the state commission's review, including any notes, shall be kept confidential.

41. SBC/Ameritech will, for 36 months after the Merger Closing Date, waive, credit or refund to telecommunications carriers 100 percent of the total nonrecurring collocation costs for qualifying collocation projects³⁹ if SBC/Ameritech misses the collocation due date by more than 60 calendar days.

a. The following business rules (based on Measurement Number 17 in Attachments A-2a and A-2b – Percent Missed Collocation Due Dates from the Performance Measurements) will be used for purposes of this Paragraph. The rules apply to all requests for physical, virtual, adjacent structure, and cageless collocation in a LATA where the requesting telecommunications carrier has submitted no more than 5 collocation requests to SBC/Ameritech in a LATA within a 30-day period that includes the date of the request. Requests in excess of 5 collocation arrangements per LATA will be included when the requesting telecommunications carrier meets with SBC/Ameritech in advance of its submission of the requests and negotiates a mutually agreeable deployment schedule. If no such agreement is reached, this condition shall

³⁸ We note that these working papers and supporting materials may be subject to FOIA, however.

³⁹ Our interpretation of the term "qualifying collocation project" includes orders for collocation that have been submitted to SBC or Ameritech prior to the Merger Closing Date and that remain pending (i.e., not completed or filled) as of the Merger Closing Date.

apply to the first 5 requests received from the telecommunications carrier for the LATA during the 30-day period.

b. Unless otherwise mutually agreed, due dates for collocation requests will be established by SBC/Ameritech, in compliance with the standard collocation intervals included in the approved tariff or relevant interconnection agreement existing as of the Merger Closing Date, whichever governs the provision of collocation in the relevant state. Due dates may be extended when mutually agreed to by SBC/Ameritech and the telecommunications carrier, or by ~~facts or~~ **[Acts of]** God or force majeure events or when such carrier fails to complete work items for which the carrier is responsible in the allotted time frame. The extended due date will be calculated by adding to the original due date the number of calendar days that SBC/Ameritech and the telecommunications carrier agree were attributable to Acts of God or force majeure events or that the telecommunications carrier was late in performing said work items. Work items include, but are not limited to, the telecommunications carrier return to SBC/Ameritech of corrected and complete floor plan drawings and placement of required components(s) by such carrier or its vendor. If SBC/Ameritech and the carrier cannot agree on the extended due date, this dispute will be submitted to the Chief of the Common Carrier Bureau for resolution.

c. A due date is considered met when SBC/Ameritech turns the space over to the telecommunications carrier (for physical collocation), completes installation of virtually collocated equipment (or provides notification that the space is ready for installation where the carrier provides the virtually collocated equipment), or, in the case of adjacent structure collocation and cageless collocation where the carrier provides its own bays, when SBC/Ameritech provides the requested interconnection and power cabling to the collocation space.

XII. Most-Favored-Nation Provisions for Out-of-Region and In-Region Arrangements

42. Out-of-Region Agreements. SBC/Ameritech shall make available to telecommunications carriers in the SBC/Ameritech Service Area any service arrangements that an incumbent LEC (not an SBC/Ameritech incumbent LEC) develops for an SBC/Ameritech affiliate, at the request of the SBC/Ameritech affiliate, where the SBC/Ameritech affiliate operates as a new local telecommunications carrier. Specifically, if the SBC/Ameritech out-of-territory entity described in Paragraph 59⁴⁰ ~~make~~ **[makes]** a specific request for⁴¹ and ~~obtain~~ **[obtains]**⁴² any interconnection arrangement or UNE from an incumbent LEC that had not

⁴⁰ This includes entities for which SBC/Ameritech has a right of first refusal or other option to purchase or resell the stock, assets, or network capacity of the entity

⁴¹ If the SBC/Ameritech entity obtains an already existing interconnection arrangement or UNE, a “request” will not be required, and “obtains” will govern.

⁴² “Obtains” includes any instance in which the SBC/Ameritech entity gains actual or constructive use of an interconnection arrangement or UNE. This may include arrangements in which SBC/Ameritech’s entity resells packaged services offered by another telecommunications company that has obtained an interconnection arrangement or UNE. It may also include instances in which the SBC/Ameritech entity acquires, obtains an interest in, or partners with

previously been made available to any other telecommunications carrier by that incumbent LEC, then SBC/Ameritech's incumbent LECs shall make available to requesting telecommunications carriers in the SBC/Ameritech Service Area, through good-faith negotiation, the same interconnection arrangement or UNE on the same terms (exclusive of price). SBC/Ameritech shall not be obligated to provide pursuant to this condition any interconnection arrangement or UNE unless it is feasible to provide given the technical, network and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made.⁴³ Disputes regarding the availability of an interconnection arrangement or UNE shall be resolved pursuant to negotiation between the parties or by the relevant state commission under 47 U.S.C. § 252 to the extent applicable. The price(s) for such interconnection arrangement or UNE shall be negotiated on a state-specific basis⁴⁴ and, if such negotiations do not result in agreement, SBC/Ameritech's incumbent LEC shall submit the pricing dispute(s), exclusive of the related terms and conditions required to be provided under this Paragraph, to the applicable state commission for resolution under 47 U.S.C. § 252 to the extent applicable.⁴⁵ To assist telecommunications carriers in exercising the options made available by this Paragraph, SBC/Ameritech or the out-of-region entit(ies) described in Paragraph 59 shall post on its Internet website all interconnection agreements between the SBC/Ameritech out-of-territory entity and an unaffiliated incumbent LEC.

43. In-Region Agreements. Subject to the conditions specified in this Paragraph, SBC/Ameritech shall make available to any requesting telecommunications carrier in the SBC/Ameritech Service Area within any SBC/Ameritech State any interconnection arrangement or UNE in the SBC/Ameritech Service Area within any other SBC/Ameritech State that (1) was negotiated with a telecommunications carrier, pursuant to 47 U.S.C. § 252(a)(1), by an SBC/Ameritech incumbent LEC that at all times during the interconnection agreement negotiations was an affiliate of SBC and (2) has been made available under an agreement to which SBC/Ameritech is a party. Terms, conditions, and prices contained in tariffs cited in SBC/Ameritech's interconnection agreements shall not be considered negotiated provisions.⁴⁶

another entity that has such interconnection arrangement or UNE.

⁴³ Evidence that an SBC/Ameritech entity – whether a local carrier or other telecommunications provider - has an interconnection arrangement or UNE with another incumbent LEC or third party will establish a presumption that SBC/Ameritech is technically capable of providing the same interconnection agreement/UNE to local carriers or other telecommunications providers within its region.

⁴⁴ The non-discrimination obligations applicable to SBC/Ameritech and the provisions of Section 252(i) may make such negotiations unnecessary.

⁴⁵ During the pendency of any pricing dispute, SBC/Ameritech will provide the interconnection arrangement or UNE to the disputing party, on an interim basis, at the same rates at which SBC/Ameritech out-of-state entity purchases the arrangement or UNE, subject to true-up following resolution of the dispute by the applicable state commission.

⁴⁶ Provided, however, that if the interconnection agreement or UNE is not available to requesting telecommunications carriers except through an SBC/Ameritech tariff, the tariffed

Exclusive of price and subject to the conditions specified in this Paragraph, qualifying interconnection arrangements or UNEs shall be made available to the same extent and under the same rules that would apply to a request under 47 U.S.C. § 252(i), provided that the interconnection arrangements or UNEs shall not be available beyond the last date that ~~it is~~ [they are] available in the underlying agreement and that the requesting telecommunications carrier accepts all reasonably related terms and conditions as determined in part by the nature of the corresponding compromises between the parties to the underlying interconnection agreement. The price(s) for such interconnection arrangement or UNE shall be established on a state-specific basis pursuant to 47 U.S.C. § 252 to the extent applicable. Provided, however, that pending the resolution of any negotiations, arbitrations, or cost proceedings regarding state-specific pricing, SBC/Ameritech shall offer to enter into an agreement with the requesting telecommunications carrier whereby the requesting telecommunications carrier will pay, on an interim basis and subject to true-up, the same prices established for the interconnection arrangement or UNE in the negotiated agreement. This Paragraph shall not impose any obligation on SBC/Ameritech to make available to a requesting telecommunications carrier any terms for interconnection arrangements or UNEs that incorporate a determination reached in an arbitration conducted in the relevant state under 47 U.S.C. § 252, or the results of negotiations with a state commission or telecommunications carrier outside of the negotiation procedures of 47 U.S.C. § 252(a)(1). For example, terms made available in Texas through SWBT's Proposed Interconnection Agreement ("PIA") (filed with the Texas PUC on May 13, 1999) would not be available under this Paragraph.⁴⁷ SBC/Ameritech shall not be obligated to provide pursuant to this Paragraph any interconnection arrangement or UNE unless it is feasible to provide given the technical, network and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made. Disputes regarding the availability of an interconnection arrangement or UNE shall be resolved pursuant to negotiation between the parties or by the relevant state commission under 47 U.S.C. § 252 to the extent applicable.⁴⁸

XIII. Multi-State Interconnection and Resale Agreements

44. Upon the request of a telecommunications carrier, SBC/Ameritech shall negotiate in good faith an interconnection and/or resale agreement covering the provision of

rates, terms and conditions shall be considered negotiated provisions. Moreover, terms and conditions and prices listed in any non-tariffed model interconnection agreement, Statement of Generally Available Terms and Conditions, or other source of interconnection arrangements or UNEs will be considered negotiated provisions for purposes of this section.

⁴⁷ This limitation only applies to arbitrated clauses or terms in a particular agreement. To the extent that a particular agreement contains both arbitrated and negotiated terms, as we interpret this clause, SBC/Ameritech would have an obligation to offer the negotiated terms to requesting carriers in other SBC/Ameritech states. As a result, certain portions of the PIA would be available in other SBC/Ameritech states.

⁴⁸ In addition to retention of all other jurisdiction under the Communications Act, state commissions specifically retain their authority to require SBC/Ameritech to make available the results of arbitrated agreements in states other than the state in which the arbitration occurred.

interconnection arrangements, services, and/or UNEs in the SBC/Ameritech Service Area in two or more SBC/Ameritech States.⁴⁹ Such a multi-state generic agreement may include a separate contract with each SBC/Ameritech incumbent LEC. No later than 60 days after the Merger Closing Date, SBC/Ameritech shall make available to any requesting telecommunications carrier generic interconnection and resale terms and conditions covering the SBC/Ameritech Service Area in all SBC/Ameritech States. Pricing under a multi-state generic agreement shall be established on a state-by-state basis and SBC/Ameritech shall not be under any obligation to enter into any arrangement for a state that is not technically feasible and lawful in that state. Any agreement negotiated under this Section shall be subject to the state-specific mediation, arbitration, and approval procedures of Section 252 of the Communications Act. Approval of the agreement in one state shall not be a precondition for implementation of the agreement in another state where approval has been obtained.

XIV. Carrier-to-Carrier Promotions: Unbundled Loop Discount

45. SBC/Ameritech shall offer the unbundled loop carrier-to-carrier promotion described below in the SBC/Ameritech Service Area. SBC/Ameritech shall implement this promotion by providing each telecommunications carrier with which SBC/Ameritech has an interconnection agreement in an SBC/Ameritech State, no later than 10 days after the Merger Closing Date, a written offer to amend each telecommunications carrier's interconnection agreement in that state to incorporate the promotion.⁵⁰ For purposes of this Section, an offer published on SBC/Ameritech's Internet website that can be accessed by telecommunications carriers shall be considered a written offer. SBC/Ameritech shall establish necessary internal processes and procedures to ensure that SBC/Ameritech's wholesale business units are responsive to telecommunications carriers' requests for the promotion. SBC/Ameritech shall make its written offer in each state at the same time to all telecommunications carriers with which it has existing interconnection and/or resale agreements in that state. The agreement amendments for all carriers in a state that accept SBC/Ameritech's written offer within 10 business days after the initial offer shall be filed at the same time for review and approval by the relevant state commission.

46. For an Offering Window period in the SBC/Ameritech Service Area, SBC/Ameritech shall offer, to those telecommunications carriers that have signed an effective interconnection agreement amendment, promotional discounted prices on monthly recurring charges for unbundled local loops used in the provision of local service to residential end user customers that are ordered after the Merger Closing Date. SBC/Ameritech may provide promotional discounts through credits, true-ups, or other billing mechanisms, provided, however,

⁴⁹ Unaffiliated providers with signed negotiated agreements in one or more SBC/Ameritech states may require SBC/Ameritech to sign the same agreement throughout the SBC/Ameritech region.

⁵⁰ Applicants must offer the promotional discounts to carriers with which SBC/Ameritech has an interconnection agreement through both its agreements and its tariffs so that CLECs purchasing loops pursuant to tariff can take advantage of the discounts.

that such credits, true-ups or other mechanisms are applied within 60 days of the initial billing for the service.⁵¹

a. The Offering Window period for the unbundled loop promotion for each SBC and Ameritech State shall begin 30 days after the Merger Closing Date and end at the latest of the following: (i) 24 months after commencement of the Offering Window period; (ii) the first date on which SBC/Ameritech is authorized to provide in-region, interLATA services in the relevant state; or (iii) the first date on which SBC/Ameritech provides facilities-based telephone exchange service to at least one customer in each of 15 out-of-territory markets pursuant to Paragraph 59 of these Conditions. The Offering Window period may end earlier in a state than provided in the preceding sentence if and when the maximum number of unbundled loops has been reached in that state pursuant to Subparagraph g of this Paragraph. During the Offering Window, SBC/Ameritech shall respond to all telecommunications carrier inquiries regarding the promotional discounted prices within 10 business days.

b. SBC/Ameritech shall be under no obligation to provide an unbundled local loop at a promotional discounted price unless the loop is ordered during the Offering Window with a requested installation date of no later than 30 days after the close of the Offering Window. Unbundled loops ordered or in service prior to the start of the Offering Window, or ordered after the end of the Offering Window, shall not be eligible for a promotional discounted price.

c. SBC/Ameritech shall be under no obligation to provide an unbundled local loop at a promotional discounted price ordered before the Merger Closing Date or outside the Promotional Period. The discounted prices shown in Attachment C shall be the prices applicable throughout the duration of the unbundled loop carrier-to-carrier promotion. For the purposes of this Section, the Promotional Period shall be a period of 36 months from the date a qualifying unbundled local loop is installed and operational, or the period during which the loop remains in service at the same location and for the same telecommunications carrier, whichever is shorter.

d. The promotional discounted prices for unbundled analog local loops used in the provision of residential telephone exchange service and the promotional discount levels are shown in Attachment C. These promotional discounted prices were calculated to be, on average for each state except Ohio, 25 percent below the lowest applicable monthly recurring price established for the same loop by the relevant state commission pursuant to 47 U.S.C. § 252 as of August 27, 1999, assuming that the number of unbundled loops to be provided in each geographic area will be proportionate to the number of residential access lines in that geographic area. For Ohio, the promotional discounted prices were established at the same levels as approved by the Public Utilities Commission of Ohio in its order approving the merger.

e. Telecommunications carriers requesting unbundled local loops at a promotional discounted price shall agree to abide by the following conditions: (i) the loop shall be used to provide residential telephone exchange service⁵² and **[any associated exchange access**

⁵¹ The credits must be applied within 60 days of the initial billing, but must relate back to the acceptance of the promotional offer.

⁵² As used in this paragraph "residential telephone exchange service" includes small

service and] shall not be used to provide any Advanced Services as defined in Section I; (ii) the loop shall not be purchased or used as part of a UNE Platform or in any other combination with SBC/Ameritech's local switching or the functions and features associated with that switching; and (iii) the loop shall be used in accordance with any other binding conditions imposed under applicable agreements, judicial or administrative decisions, or governing law.

Telecommunications carriers that obtain unbundled local loops at the promotional discounted prices shall, on a quarterly basis, certify to SBC/Ameritech and the appropriate state commission that they are using all unbundled local loops provided at a promotional discounted price in accordance with these Conditions. SBC/Ameritech shall have the right to hire, at its own expense, an independent third-party auditor to perform all necessary audits and inspections needed to assure that unbundled local loops provided at a promotional discounted price are used in accordance with conditions (i) and (ii), above. Telecommunications carriers that obtain unbundled local loops at a promotional discounted price shall agree to cooperate in the performance of such audits and inspections. Audit information will be restricted to SBC/Ameritech regulatory, legal, and/or wholesale personnel, and SBC/Ameritech will prohibit those personnel from disclosing audit-related, customer-specific or company-specific proprietary information to SBC/Ameritech retail personnel.

f. Any telecommunications carrier found by the appropriate state commission to have violated the use conditions of Subparagraph e or that fails to cooperate in an audit may be denied the promotional discounted price on any unbundled local loop for which the use conditions or the audit provisions are violated. In addition, any such telecommunications carrier that intentionally and repeatedly violates the use conditions of Subparagraph e may be denied the promotional discounted price on unbundled local loops ordered or installed after the date of such a finding by a state commission.

g. The maximum number of unbundled local loops that SBC/Ameritech shall be required to provide at a promotional discounted price in each state shall be: Illinois – ~~{180,000;}~~ **[181,000;]** Indiana – ~~{62,000}~~ **[63,000]**; Michigan – 152,000; Ohio – 120,000; Wisconsin – 64,000; California – 479,000; Nevada – 10,000; Connecticut – 68,000; Arkansas – 30,000; Kansas – 41,000; Missouri – 76,000; Oklahoma – 51,000; Texas – 275,000. In order to provide CLECs with advance planning information, SBC/Ameritech shall provide written or Internet notice to CLECs operating in the relevant state when 50 percent and 80 percent of these maximum numbers are reached in each SBC/Ameritech State. Unbundled local loops installed and made operational at the promotional discounted price after the Merger Closing Date shall be counted toward the maximum number, whether or not they remain in service.⁵³ The relevant state commission may allocate the maximum number of unbundled local loops eligible for a promotional discounted price in that state between two or more geographic areas within the state.

XV. Carrier-to-Carrier Promotions: Resale Discount

business services (i.e. service to four or fewer lines).

⁵³ Unbundled local loops that were served by CLECs under a promotional discounted price, but subsequently served by the ILEC would not count toward the maximum.

47. SBC/Ameritech shall offer the resale carrier-to-carrier promotion described below in the SBC/Ameritech Service Area. SBC/Ameritech shall implement this promotion by providing each telecommunications carrier with which SBC/Ameritech has an interconnection agreement in an SBC/Ameritech State, no later than 10 days after the Merger Closing Date, a written offer to amend each telecommunications carrier's interconnection agreement in that state to incorporate the resale promotion. For purposes of this Section, an offer published on SBC/Ameritech's Internet website that can be accessed by telecommunications carriers shall be considered a written offer. SBC/Ameritech shall establish necessary internal processes and procedures to ensure that SBC/Ameritech's wholesale business units are responsive to telecommunications carriers' requests for the resale promotion. SBC/Ameritech shall make its written offer in each state at the same time to all telecommunications carriers with which it has existing interconnection and/or resale agreements in that state. The agreement amendments for all carriers in a state that accept SBC/Ameritech's written offer within 10 business days after the initial offer shall be filed at the same time for review and approval by the relevant state commission.

48. For the Offering Window period defined in Paragraph 49, SBC/Ameritech shall offer in the SBC/Ameritech Service Area to those telecommunications carriers that have signed an effective interconnection agreement amendment, promotional resale discounts on telecommunications services that SBC/Ameritech provides at retail to subscribers who are not telecommunications carriers, where such services are resold to residential end user customers. The Offering Window period may end earlier in a state than provided in the preceding sentence if and when the maximum number of promotional resold lines plus promotional end-to-end UNE combinations has been reached in that state pursuant to Paragraph 49. For purposes of this Paragraph, the term "telecommunications service" shall have the same meaning as in 47 U.S.C § 251(c)(4). SBC/Ameritech may provide promotional discounts through credits, true-ups, or other billing mechanisms, provided, however, that such credits, true-ups or other mechanisms are applied within 60 days of the initial billing for the service.

a. SBC/Ameritech shall be under no obligation to provide a service for resale at a promotional resale discount unless the underlying resold line is ordered after the Merger Closing Date and during the Offering Window with a requested installation date of no later than 30 days after the close of the Offering Window for the particular state. Resold services (such as Call Waiting) provided over a resold customer line that was ordered or in service prior to the Offering Window, or placed in service more than 30 days after the end of the Offering Window, shall not be eligible for a promotional resale discount. Resold services (such as Call Waiting) added to a resold line that qualifies for the promotional resale discounts shall be eligible for the promotional resale discounts for the duration of the Promotional Period regardless of whether such resold services were added after the end of the Offering Window.

b. SBC/Ameritech shall be under no obligation to provide a service for resale at a promotional resale discount outside the Promotional Period. For the purposes of this Subparagraph, the Promotional Period shall be a period of 36 months from the date a qualifying resold service is installed and operational, or the period during which the resold service remains in service at the same location and for the same telecommunications carrier, whichever is shorter.

c. The promotional resale discount rate for services resold to residential customers shall be 32 percent from the retail rate until the latest of: (i) 24 months after commencement of the Offering Window period; (ii) the first date on which SBC/Ameritech is authorized to provide in-region, interLATA services in the relevant state; or (iii) the first date on which SBC/Ameritech provides facilities-based telephone exchange service to at least 3 customers in each of 15 out-of-territory markets pursuant to Paragraph 59c(2) of these Conditions. Thereafter, for the remaining duration of any Promotional Period, the promotional resale discount rate for service resold to residential customers shall be 1.1 times the standard wholesale discount rate established for the service by the relevant state commission pursuant to 47 U.S.C. § 252(d)(3) and then in effect (e.g., if the standard wholesale discount rate in a state is 20 percent, then the promotional resale discount rate would be 22 percent). Upon the termination of the initial 32 percent promotional resale discount rate, this discount rate shall apply automatically to all services eligible for a promotional resale discount, including those services that initially were provided under the 32 percent promotional resale discount. The promotional resale discounts shall apply to all resold services provided over a qualifying resold line; i.e., on a single resold line telecommunications carriers may not “pick and choose” between the promotional resale discounts and the standard resale discounts that apply in a state.

49. The Offering Window for the Promotional Resale Discounts in each state shall begin 30 days after the Merger Closing Date and end for that state at the earlier of the following: (i) 36 months after commencement of the Offering Window period; or (ii) the month following the date when the sum of resold lines in service in a state at the Promotional Resale Discounts plus the quantity of Promotional End-to-End UNE Combinations in service in the state reaches the maximum allowable quantity by state set forth below for each state: Illinois – 302,000; Indiana – 104,000; Michigan – 252,000; Ohio – 200,000; Wisconsin – 102,000; California – 799,000; Nevada – 17,000; Connecticut – 114,000; Arkansas – 49,000; Kansas – 68,000; Missouri – 127,000; Oklahoma – 84,000; and Texas – 458,000. In order to provide CLECs with advance planning information, SBC/Ameritech shall provide written or electronic notice to CLECs operating in the relevant state when 50 percent and 80 percent of these termination numbers are reached in each SBC/Ameritech State. If the Offering Window in a state ends for the Resale promotions in that state because the maximum allowable quantity listed in this Paragraph has been exceeded in that state, SBC/Ameritech shall file notice with the Secretary of the Commission, the relevant state commission and the CLECs operating in that state, within 3 business days after terminating the Offering Window for the availability of promotional resale discounts in the state.

XVI. Carrier-to-Carrier Promotions: UNE Platform

50. SBC/Ameritech shall offer the UNE platform promotion described below in the SBC/Ameritech Service Area. SBC/Ameritech shall implement the UNE platform promotion by providing each telecommunications carrier with which SBC/Ameritech has an interconnection agreement in an SBC/Ameritech State, no later than 10 days after the Merger Closing Date, a written offer to amend each telecommunications carrier’s interconnection agreement in that state to incorporate the promotion. For purposes of this Section, an offer published on SBC/Ameritech’s Internet website that can be accessed by telecommunications carriers shall be considered a written offer. SBC/Ameritech shall establish necessary internal processes and procedures to ensure that SBC/Ameritech’s wholesale business units are responsive to

telecommunications carriers' requests for the UNE platform promotion. SBC/Ameritech shall make its written offer in each state at the same time to all telecommunications carriers with which it has existing interconnection and/or resale agreements in that state. The agreement amendments for all carriers in a state that accept SBC/Ameritech's written offer within 10 business days after the initial offer shall be filed at the same time for review and approval by the relevant state commission.

51. For the Offering Window period defined in Paragraph 52, SBC/Ameritech shall offer in the SBC/Ameritech Service Area to those telecommunications carriers that have signed an effective interconnection agreement amendment, promotional, end-to-end combinations of UNEs (the "promotional UNE platform") to enable the telecommunications carriers to provide residential POTS service and residential Basic Rate Interface ISDN service. The promotional UNE platform may be used to provide exchange access services in combination with these services. For purposes of this Paragraph, the promotional UNE platform is a combination of all network elements used to provide residential POTS service and residential Basic Rate Interface ISDN service and available under 47 C.F.R. § 51.319, as in effect on January 24, 1999.

a. SBC/Ameritech shall be under no obligation under this condition to provide the promotional UNE platform unless the promotional UNE platform is ordered after the Merger Closing Date and during the Offering Window with a requested installation date of no later than 30 days after the close of the Offering Window. SBC/Ameritech shall not be obligated under the terms of those conditions to provide UNE platforms that are ordered before or after the Offering Window.

b. SBC/Ameritech shall be under no obligation under this condition to provide the promotional UNE platform outside the Promotional Period. For the purposes of this Subparagraph, the Promotional Period shall be a period of 36 months from the date a promotional UNE platform is installed and operational, or the period during which the promotional UNE platform remains in service at the same location and for the same telecommunications carrier, whichever is shorter.

c. The price for the promotional UNE platform shall be negotiated or established by the appropriate state commission in accordance with the pricing rules that apply to UNEs pursuant to 47 U.S.C. § 252(d)(1). The promotional UNE platform shall not be available in combination with unbundled loops obtained under any other promotion, including the Promotional Discounts on unbundled local loops described in Section XIV.

d. Telecommunications carriers requesting the promotional UNE platform shall agree to abide by the following conditions: (i) the network elements shall be used to provide residential local telephone exchange service **{and any associated exchange access service}**; and (ii) the network elements shall be used in accordance with any other binding conditions imposed under applicable agreements, judicial or administrative decisions, or governing law. Telecommunications carriers that obtain the promotional UNE platform shall, on a quarterly basis, certify to SBC/Ameritech and the appropriate state commission that they are using these network elements in accordance with the above conditions. SBC/Ameritech shall have the right to hire, at its own expense, an independent third-party auditor to perform all necessary audits and inspections needed to assure that network elements provided as part of the

promotional UNE platform are used to provide residential telephone exchange service. Telecommunications carriers that obtain the promotional UNE platform shall agree to cooperate in the performance of such audits and inspections. Audit information will be restricted to SBC/Ameritech regulatory, legal, and/or wholesale personnel, and SBC/Ameritech will prohibit those personnel from disclosing audit-related, customer-specific or company-specific proprietary information to SBC/Ameritech retail personnel.

e. Any telecommunications carrier found by the appropriate state commission to have violated the use conditions of Subparagraph d or that fails to cooperate in an audit may be denied a promotional UNE platform as to which the use conditions or the audit provisions are violated. In addition, any such telecommunications carrier that intentionally and repeatedly violates the use conditions of Subparagraph d may be denied the promotional UNE platform for UNE platforms installed after the date of such a finding by a state commission.

52. The Offering Window for Promotional End-to-End UNE Combinations in each state shall begin 30 days after the Merger Closing Date and end for that state at the earlier of the following: (i) 36 months after commencement of the Offering Window period; or (ii) the month following the date when the sum of resold lines in service in a state at the Promotional Resale Discounts plus the quantity of Promotional End-to-End UNE Combinations in service in the state reaches the maximum allowable quantity by state set forth below for each state: Illinois – 302,000; Indiana – 104,000; Michigan – 252,000; Ohio – 200,000; Wisconsin – 102,000; California – 799,000; Nevada – 17,000; Connecticut – 114,000; Arkansas – 49,000; Kansas – 68,000; Missouri – 127,000; Oklahoma – 84,000; and Texas – 458,000. In order to provide telecommunications carriers with advance planning information, SBC/Ameritech shall provide written or Internet notice to telecommunications carriers operating in the relevant state when 50 percent and 80 percent of these termination numbers are reached in each of the SBC/Ameritech States. If the Offering Window in a state ends for the UNE Combinations promotions in that state because the maximum allowable quantity listed in this Paragraph has been exceeded in that state, SBC/Ameritech shall file notice with the Secretary of the Commission, the relevant state commission and the telecommunications carriers operating in that state, within 3 business days after terminating the Offering Window for the availability of promotional end-to-end UNE combinations in the state.

XVII. Offering of UNEs

53. SBC/Ameritech shall continue to make available to telecommunications carriers, in the SBC/Ameritech Service Area within each of the SBC/Ameritech States, such UNEs or combinations of UNEs that were made available in the state under SBC's or Ameritech's local interconnection agreements as in effect on January 24, 1999, under the same terms and conditions that such UNEs or combinations of UNEs were made available on January 24, 1999, until the earlier of (i) the date the Commission issues a final order in its UNE remand proceeding in CC Docket No. 96-98 finding that the UNE or combination of UNEs is not required to be provided by SBC/Ameritech in the relevant geographic area, or (ii) the date of a final, non-appealable judicial decision providing that the UNE or combination of UNEs is not required to be provided by SBC/Ameritech in the relevant geographic area. This Paragraph shall become null and void and impose no further obligation on SBC/Ameritech after the effective date of a final and non-appealable Commission order in the UNE remand proceeding.

XVIII. Alternative Dispute Resolution through Mediation

54. In the SBC/Ameritech Service Area within each SBC/Ameritech State, SBC/Ameritech shall implement, subject to the appropriate state commission's approval and participation, an alternative dispute resolution ("ADR") mediation process to resolve carrier-to-carrier disputes regarding the provision of local services, including disputes related to existing and effective interconnection agreements, as described in Attachment D. Participation in the ADR mediation process established by this Section is voluntary for both telecommunications carriers and state commissions. The process is not intended and shall not be used as a substitute for resolving disputes regarding the negotiation of interconnection agreements under Sections 251 and 252 of the Communications Act, or for resolving any disputes under Section 332 of the Communications Act.⁵⁴ The ADR mediation process shall be utilized to resolve local interconnection agreement disputes between SBC/Ameritech and unaffiliated telecommunications carriers at the unaffiliated telecommunications carrier's request.

XIX. Shared Transport in Ameritech States⁵⁵

55. No later than the Merger Closing Date, SBC/Ameritech shall in the SBC/Ameritech Service Area within the Ameritech States, file tariffs and/or offer amendments containing standard terms and conditions for inclusion in interconnection agreements under 47 U.S.C. § 252, to make available to customers of SBC/Ameritech's unbundled local switching, subject to state approval, the function of shared transport (as defined in the Third Order on Reconsideration and Further Notice of Proposed Rulemaking, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 12 FCC Rcd 12460 (1997)), on

⁵⁴ The existence of this process shall not be utilized by SBC/Ameritech or any court to implicate or invoke the primary jurisdiction doctrine with regard to any dispute involving any alleged violation of federal, state or local law.

⁵⁵ In no manner shall these Conditions be construed as Commission approval of the lawfulness of Ameritech's position with regard to shared transport. Ameritech's current shared transport policy is undertaken at Ameritech's own risk and Ameritech remains fully subject to a finding or decision by a court of competent jurisdiction, any state commission or this Commission that that policy is unlawful under the Communications Act, the federal antitrust statutes, or any other provision of federal, state or local law. By approving the merger subject to these Conditions, the Commission explicitly states that the primary jurisdiction doctrine should not apply to any dispute between Ameritech and any party aggrieved by Ameritech's past or present shared transport policy. In particular, the existence of these Conditions and Commission approval of these Conditions may not be used by SBC/Ameritech or any court to implicate or invoke the primary jurisdiction doctrine with regard to any case in which a party alleges that Ameritech's past or present shared transport policy violates any provision of federal, state or local law. In addition, the Commission notes that Section 207 provides a private right of action for violations of the Communications Act of 1934, as amended, and that the existence of these Conditions and Commission approval of these Conditions in no way affects any party's rights under Section 207 to recover damages with regard to any claim regarding Ameritech's past or present shared transport policy.

an interim basis as follows. Interim shared transport shall be available in the SBC/Ameritech Service Area within the Ameritech States until the earlier of (i) implementation of the shared transport arrangements described in Paragraph 56 in the relevant geographic area, or (ii) such time, if any, that the Commission enters a final and non-appealable order finding that either local switching or transport is not a UNE nationally or in the relevant geographic area.

a. SBC/Ameritech shall not require use of dedicated transport or customized routing to complete all calls using local switching and shared transport. SBC/Ameritech shall make available a modified version of transiting that does not require a dedicated end office integration ("EOI") transit trunk. **[No later than the Merger Closing Date,]** SBC/Ameritech shall withdraw Ameritech's proposal for the Commission to establish a separate transit service rate to be charged in conjunction with shared transport (as described in Ameritech's March 25, 1999, ex parte filing in CC Docket No. 96-98).

b. Where an end user customer served by a telecommunications carrier using SBC/Ameritech's shared transport facilities makes or receives an intraLATA or interLATA call carried by an interexchange carrier, SBC/Ameritech shall collect its relevant access charges from the interexchange carrier. Based upon originating and terminating usage factors, SBC/Ameritech shall then make payment to (or receive payment from) the telecommunications carrier based on the difference between the access charges and the applicable charges for the UNEs used by the telecommunications carrier to provide the access service.

c. SBC/Ameritech may charge a telecommunications carrier using SBC/Ameritech's local switching and shared transport facilities to originate traffic for the telecommunications carrier's usage of local switching and a usage-sensitive shared transport rate. The shared transport rate shall be based upon a blend of direct and tandem-routed traffic and either local switch usage at the terminating SBC/Ameritech end office or transiting and applicable termination charges for traffic to a non-SBC/Ameritech end office. SBC/Ameritech shall not charge a telecommunications carrier using SBC/Ameritech's local switching for usage at the terminating switch to which the telecommunications carrier's traffic is delivered by shared transport facilities. SBC/Ameritech shall not be required to create message records for terminating usage under these Conditions.

d. SBC/Ameritech shall offer to include in its approved interconnection agreements for the Ameritech States a retroactive true-up provision that would become effective upon a state commission's final and unappealable decision modifying either SBC/Ameritech's proposed access charge settlement methodology or SBC/Ameritech's proposed shared transport rate. SBC/Ameritech shall not be required under this Subparagraph to provide a retroactive true-up for any period prior to the effective date of the tariffs or amendments filed or offered under this Paragraph.

56. Within 12 months of the Merger Closing Date (but subject to state commission approval and the terms of any future Commission orders regarding the obligation to provide unbundled local switching and shared transport), SBC/Ameritech shall offer shared transport in the SBC/Ameritech Service Area within the Ameritech States under terms and conditions, other than rate structure and price, that are substantially similar to (or more favorable than) the most favorable terms SBC/Ameritech offers to telecommunications carriers in Texas as of August 27,

1999. Subject to state commission approval and the terms of any future Commission orders regarding the obligation to provide unbundled local switching and shared transport, SBC/Ameritech shall continue to make this offer, at a minimum, until the earlier of (i) the date the Commission issues a final order in its UNE remand proceeding in CC Docket No. 96-98 finding that shared transport is not required to be provided by SBC/Ameritech in the relevant geographic area, or (ii) the date of a final, non-appealable judicial decision providing that shared transport is not required to be provided by SBC/Ameritech in the relevant geographic area.

XX. Access to Cabling in Multi-Unit Properties⁵⁶

57. SBC/Ameritech shall, subject to any required state approvals, offer to conduct a trial with one or more interested, unaffiliated CLECs in each of five large cities within the SBC/Ameritech Service Area to identify the procedures and associated costs required to provide CLECs with access to cabling within Multi-Dwelling Unit premises ("MDUs") and multi-tenant premises housing small businesses ("MTUs"), where SBC/Ameritech controls the cables. The trials shall be conducted in accordance with the following terms:

- a. In each city, the trial shall include buildings that contain, in the aggregate, at least 1,000 residential dwelling units.
- b. In at least one city, the trial shall include at least one "campus" of garden apartment dwelling units.
- c. In at least one city, the trial shall include at least one MTU.

⁵⁶ Nothing in these conditions in any way limits SBC/Ameritech's obligations to provide access pursuant to Section 251 unbundling obligations, Section 224 access requirements or any other access or demarcation point requirements that exist or that may be adopted in the future. SBC and Ameritech's policies with regard to access to cabling in multi-unit properties in SBC and Ameritech territories was undertaken at their own risk and Applicants remain fully subject to a finding or decision by a court of competent jurisdiction, any state commission or this Commission that those policies are unlawful or do not satisfy the Communications Act, the federal antitrust statutes, or any other provision of federal, state or local law. By approving the merger subject to these Conditions, the Commission explicitly states that the primary jurisdiction doctrine should not apply to any dispute between SBC, Ameritech and SBC/Ameritech and any party aggrieved by these policies. In particular, the existence of these Conditions and Commission approval of these Conditions may not be used by SBC/Ameritech or any court to implicate or invoke the primary jurisdiction doctrine with regard to any case in which a party alleges that SBC's, Ameritech's or SBC/Ameritech's past or present access to cabling in multi-tenant properties policies violates any provision of federal, state or local law. In addition, the Commission notes that Section 207 provides a private right of action for violations of the Communications Act of 1934, as amended, and that the existence of these Conditions and Commission approval of these Conditions in no way affects any party's rights under Section 207 to recover damages with regard to any claim regarding SBC's, Ameritech's or SBC/Ameritech's past or present policy regarding access to cabling in multi-unit properties.

d. The trials shall provide the CLECs with access at a single point of interface⁵⁷ to the cabling that SBC/Ameritech controls. Recabling and reconfiguration required by this Section shall be priced at actual cost. Administrative costs associated with recabling and reconfiguration shall be priced at cost in accordance with the pricing rules applicable to UNEs under 47 U.S.C. § 251(d)(2). Disputes regarding the costs incurred and the allocation of such costs among participants in the trials shall be resolved by the Chief of the Common Carrier Bureau.

e. If requested by a CLEC, the first trial shall begin no later than 180 days after the Merger Closing Date. The trials shall be fully deployed within 12 months after the Merger Closing Date. Each trial shall be conducted for a period not greater than 12 months.

f. SBC/Ameritech shall select trial locations and develop a trial plan with input from its CLEC customers. SBC/Ameritech shall negotiate, upon a CLEC's request, regarding access to those buildings used in a trial after the conclusion of that trial. Disputes regarding selection of trial locations shall be resolved by the Chief of the Common Carrier Bureau.

g. Taking into account the results of the trials, SBC/Ameritech will negotiate in good faith with CLECs to develop, as an additional alternative to the Minimum Point of Entry in Paragraph 58 where the property owner(s) or some other party(ies) accepts full responsibility for installing and maintaining all cabling on the customer side of the Minimum Point of Entry, tariffs and/or interconnection agreement amendments that will facilitate single points of interconnection to cabling controlled by SBC/Ameritech in MDUs/MTUs on a going-forward basis.

58. In the SBC/Ameritech Service Area SBC/Ameritech shall, subject to any required state approvals and consistent with any relevant state laws or regulations, install new cables in a manner that will provide telecommunications carriers a single point of interface, as provided in this Paragraph.⁵⁸ SBC/Ameritech shall only be required pursuant to this Paragraph to provide a single point of interface where the property owner(s) or some other party(ies) accepts full responsibility for installing and maintaining all cabling on the customer side of the single point of interface. Nothing in this Paragraph shall restrict property owners' rights to control access to their buildings or property. Access from the public right-of-way to the single point of interface is the responsibility of each telecommunications carrier. The provisions of this Paragraph apply only to cable installations for which engineering work is begun after the Merger Closing Date.

a. When SBC/Ameritech is hired to install new cables in a newly constructed or retrofitted single-building MDU or campus of garden apartment dwelling units or a newly

⁵⁷ As used herein the single point of interface is the demarcation point.

⁵⁸ Nothing in these Conditions prevents multi-tenant building owners or other carriers from requiring SBC/Ameritech to establish the demarcation point at the minimum point of entry into the building (consistent with existing FCC rules). SBC/Ameritech shall permit other telecommunications carriers to interface with building facilities at that location.

constructed or retrofitted multi-tenant business premises that the property owner(s) or some other party(ies) will own and maintain, SBC/Ameritech shall provide the property owner written notice that SBC/Ameritech will, unless the property owner objects, install and provide the new cables in a manner that will permit telecommunications carriers a single point of interface at a Minimum Point of Entry if the property owner(s) or some other party(ies) accepts full responsibility for installing and maintaining all cabling on the customer side of the single point of interface. Provided, however, that there may be multiple points of entry where the landlord requests diversity.

b. Where SBC/Ameritech (1) would, absent the terms of this Subparagraph, own the new cables in a newly constructed or retrofitted single-building MDU or campus of garden apartment dwelling units or a newly constructed or retrofitted multi-tenant business premises, and (2) has the right to do so without the consent of any other party, SBC/Ameritech shall install and provide cables to such multi-unit properties in a manner that will permit telecommunications carriers a single point of interface at a Minimum Point of Entry if the property owner(s) or some other party(ies) accepts full responsibility for installing and maintaining all cabling on the customer side of the Minimum Point of Entry. Provided, however, that there may be multiple points of entry where the property owner or other party requests diversity.

c. Where SBC/Ameritech (1) would, absent the terms of this Subparagraph, own the new cables in a newly constructed or retrofitted single-building MDU or campus of garden apartment dwelling units or a newly constructed or retrofitted multi-tenant business premises, but (2) needs the consent of the property owner or another party to install and provide cables to such multi-unit properties in a manner that will permit telecommunications carriers a single point of interface at a minimum point of entry, SBC/Ameritech shall provide written notice to the property owner or other party that SBC/Ameritech will, unless the other party objects, install and provide new cables to such multi-unit properties in a manner that will permit telecommunications carriers a single point of interface at a Minimum Point of Entry if the property owner(s) or some other party(ies) accepts full responsibility for installing and maintaining all cabling on the customer side of the Minimum Point of Entry. Provided, however, that there may be multiple points of entry where the other party requests diversity.

FOSTERING OUT-OF-REGION COMPETITION

XXI. Out-of-Territory Competitive Entry (National-Local Strategy)

59. SBC/Ameritech entities (including SBC/Ameritech and one or more entities in which SBC/Ameritech owns an equity interest, or the equivalent thereof, of more than 50 percent⁵⁹) shall offer local services in out-of-territory markets as described in this Paragraph. The SBC/Ameritech entities offering local service in out-of-territory markets shall be referred to as the "SBC/Ameritech Out-of-Territory Entities".

⁵⁹ This includes entities for which SBC/Ameritech has a right of first refusal or other option to purchase or resell the stock, assets or network capability of the entity.

a. The SBC/Ameritech Out-of-Territory Entities shall provide local service, as described in Subparagraph c of this Section, in 30 markets in which SBC/Ameritech currently does not operate as an incumbent LEC (the "out-of-territory markets"), which may include markets in states currently served by SBC/Ameritech's incumbent LECs. One or more SBC/Ameritech Out-of-Territory Entity(ies) may be used to satisfy the requirements contained in this Section for each of the 30 markets. Each of the 30 markets shall be chosen from the 50 out-of-territory markets listed in Attachment E and shall consist of the area defined by the Office of Management and Budget, as of June 30, 1998, as the Primary Metropolitan Statistical Area of the market (the "PMSA").

b. The initial deployment deadlines for the 30 markets shall be as follows:

(1) In the Boston, Miami, and Seattle markets, 12 months after the Merger Closing Date.

(2) For 12 additional out-of-territory markets (chosen by SBC/Ameritech at its sole discretion from the markets listed in Attachment E), 18 months after the Merger Closing Date.

(3) For the remaining 15 out-of-territory markets (chosen by SBC/Ameritech at its sole discretion from the markets listed in Attachment E), the later of: (i) 30 months after the Merger Closing Date, or (ii) 60 days after the date upon which SBC/Ameritech first holds valid authorization to provide originating voice and data interLATA services to at least 60 percent of all access lines (as reported under the Commission's Part 43 rules) served by SBC/Ameritech's incumbent LECs (including SNET).

c. SBC/Ameritech shall have fulfilled all requirements of this Section if, for each of the 30 out-of-territory markets, an SBC/Ameritech Out-of-Territory Entity meets each of the following service requirements for each of the 30 markets:

(1) No later than the initial deployment deadline for the market, an SBC/Ameritech Out-of-Territory Entity shall install a local telephone exchange switch or otherwise obtain local telephone exchange switching capability from a party other than the incumbent LEC in that market. A switch used by an affiliate (as defined in 47 U.S.C. § 153(1)) of SBC/Ameritech to provide cellular or PCS service in an out-of-territory market shall not satisfy this requirement.

(2) No later than the initial deployment deadline for the market, an SBC/Ameritech Out-of-Territory Entity shall provide facilities-based local exchange service to each of 3 unaffiliated customers in that market, who may be business and/or non-employee residential customers. For purposes of this Section, "facilities-based service" shall mean service provided by an SBC/Ameritech Out-of-Territory Entity utilizing its own switch or utilizing switching capability from a party other than the incumbent LEC or SBC/Ameritech's cellular or PCS affiliate in that market. For purposes of enforcing this provision under Subparagraph d of this Paragraph and the Communications Act, service to each of the 3 required customers shall be a separate requirement and separate act or failure to act.

(3) No later than 12 months after the initial deployment deadline for the market, an SBC/Ameritech Out-of-Territory Entity shall have collocated facilities (using physical, virtual, or other types of collocation) in at least 10 wire centers in that market that can be used to provide facilities-based service to customers served by those wire centers. For purposes of enforcing this provision under Subparagraph d of this Paragraph and the Communications Act, collocation in each of the 10 wire centers in the 30 markets shall be a separate requirement and separate act or failure to act.

(4) No later than 12 months after the initial deployment deadline for the market, an SBC/Ameritech Out-of-Territory Entity shall offer facilities-based local exchange service to all business and residential customers served by the 10 wire centers in that market where SBC/Ameritech is required to be collocated. For purposes of enforcing this provision under Subparagraph d of this Paragraph and the Communications Act, service in each of the 10 required wire centers shall be a separate requirement and separate act or failure to act.

(5) No later than 12 months after the initial deployment deadline for the market, an SBC/Ameritech Out-of-Territory Entity shall offer local exchange service to all business customers and all residential customers throughout the areas in that market that are, as of 12 months after the initial deployment deadline for the market, within (i) the local service area of the incumbent RBOC (other than SBC/Ameritech) located within the PMSA of the market, or (ii) the incumbent service area of a Tier 1 incumbent LEC (other than SBC/Ameritech) serving at least 10 percent of the access lines in the PMSA. The SBC/Ameritech Out-of-Territory Entities may provide service under this Paragraph using any means chosen by an SBC/Ameritech Out-of-Territory Entity at its sole discretion, except that an SBC/Ameritech Out-of-Territory Entity shall offer facilities-based local exchange service to all business and residential customers serviced by the 10 wire centers in the market where SBC/Ameritech has collocated under the requirements of Subparagraph c(4) above. For purposes of enforcing the provisions of this Subparagraph c(5) under Subparagraph d of this Paragraph and the Communications Act, an SBC/Ameritech Out-of-Territory Entity shall offer service to all business customers and to all residential customers in each sixth of the wire centers in the required service area that are not already required to be served under Subparagraph c(4), using any means chosen by SBC/Ameritech at its sole discretion. For example, if a required market area includes 34 wire centers, and an SBC/Ameritech Out-of-Territory Entity has collocated in 10 of those wire centers and offered facilities-based service to customers served by those 10 wire centers in accordance with Subparagraph c(4), SBC/Ameritech's failure to offer service to all business customers in up to 4 of any of the remaining 24 wire centers (i.e., up to one-sixth) would constitute a single violation of this Subparagraph. If an SBC/Ameritech Out-of-Territory Entity failed to offer either business or residential service in at least 5 but no more than 8 wire centers in this market, there would be 4 separate violations of the requirements of this Subparagraph (i.e., two-sixths for both business and residential customers).

d. Not later than 3 business days after a deadline set forth in Subparagraph c, SBC/Ameritech shall file a notice regarding its satisfaction of the relevant requirements with the Secretary of the Commission. If an SBC/Ameritech Out-of-Territory Entity fails to satisfy any of the 36 separate requirements for each out-of-territory market on or before the deadline set

forth in Subparagraph c, SBC/Ameritech shall make a one-time contribution of \$1.1 million **[for each missed requirement]** (up to a total contribution of \$39.6 million per market and \$1.118 billion if ~~(an)~~ SBC/Ameritech Out-of-Territory ~~(Entity fails)~~ **[Entities fail]** to satisfy all 36 requirements in all 30 markets) to a fund to provide telecommunications services to underserved areas, groups, or persons. Any such fund shall be established and managed by the state (including the District of Columbia) public utilities commission(s) having jurisdiction over the relevant market(s), if said state commission(s) accept such role. Where required by state law, payment shall be made to another fund or entity required by state law. Where a market includes territory in more than one state, any contribution shall be apportioned to each affected state in proportion to the percentage of all access lines within the PMSA that are within that state. Payments made under this Subparagraph for a failure to satisfy any of the 36 entry requirements shall constitute full satisfaction of the relevant entry requirement. SBC/Ameritech's payments under this Subparagraph shall not be reflected in the revenue requirement of an SBC/Ameritech incumbent LEC. Disputes regarding SBC/Ameritech's satisfaction of the deadlines set forth in Subparagraph c shall be resolved by the Chief of the Common Carrier Bureau, whose decision shall be appealable to the Commission.

e. At the request of an SBC/Ameritech Out-of-Territory Entity, a deadline established by this Section for an entry requirement may be extended by the Commission for a particular out-of-territory market for a period equal to any period during which satisfaction of the relevant requirement in the relevant market was rendered impossible or infeasible by a force majeure event or Act of God. In the event that an SBC/Ameritech Out-of-Territory Entity seeks an extension of time under this Subparagraph, SBC/Ameritech shall file with the Commission, on or before the relevant deadline, a verified statement of the specific grounds on which the extension is requested and SBC/Ameritech's proposed extension schedule. SBC/Ameritech's filing shall constitute compliance with the relevant deadline pending Commission resolution of SBC/Ameritech's request.

IMPROVING RESIDENTIAL PHONE SERVICE

XXII. InterLATA Services Pricing

60. SBC/Ameritech shall not institute mandatory, minimum monthly or flat-rate charges on interLATA calls. Specifically, subject to any applicable state regulatory requirements, SBC/Ameritech and its affiliates shall not charge wireline residential consumers a minimum monthly or minimum flat rate charge on interLATA long distance service similar to the charge that is currently assessed by some interexchange carriers (e.g., the \$3 monthly charge assessed by AT&T).

a. SBC/Ameritech and its affiliates shall not charge a minimum monthly or minimum flat rate charge (as described in this Paragraph) on interLATA services provided to any in-region or out-of-region wireline residential customer within the United States.

b. This Section shall become effective on the first day after the Merger Closing Date on which SBC/Ameritech either provides interLATA services originating in any SBC/Ameritech Service Area pursuant to 47 U.S.C. § 271(d)(3), or provides telephone exchange

service to residential customers in an out-of-territory market pursuant to the local service commitments set forth in Paragraph 59 of these Conditions. This Section shall terminate on the later of (i) 36 months after its effective date, or (ii) 36 months after the first date on which SBC/Ameritech provides telephone exchange service to residential customers in at least 15 out-of-territory markets pursuant to the local service commitments set forth in Paragraph 59 of these Conditions.

c. This Section shall not prohibit SBC/Ameritech or any of its affiliates from passing through to its customers any fees, charges, or taxes (including taxes on SBC/Ameritech's own charges) imposed or authorized by a federal, state, or other governmental entity and imposed on SBC/Ameritech or any of its affiliates as a result of its provision of interLATA services to its customer. Nor shall this Section prohibit SBC/Ameritech from offering customers an optional, voluntary interLATA services pricing plan that includes a minimum monthly or minimum flat-rate charge, or a pre-paid calling card.

XXIII. Enhanced Lifeline Plans

61. Not later than 30 days after the Merger Closing Date, SBC/Ameritech shall offer by letter to the appropriate state commission in the SBC and Ameritech States (except Ohio) to file a tariff for an enhanced Lifeline plan in the SBC/Ameritech Service Area within that state. SBC/Ameritech may fulfill this requirement in a state by either (i) proposing a new, stand-alone Lifeline plan that meets the requirements of this Paragraph, or (ii) proposing to provide additional discounts and/or other enhancements to an existing Lifeline plan in a state which, when combined with the Lifeline benefits provided by the existing plan, meet the requirements of this Paragraph. No state shall be required to accept the enhanced Lifeline plan that will be offered by SBC/Ameritech. Copies of SBC/Ameritech's written offers shall be filed with the Secretary of the Commission. Consistent with applicable state law, the terms and conditions offered by SBC/Ameritech shall be comparable to the terms and conditions of the Ohio Universal Service Assistance ("USA") Lifeline plan set forth in Ameritech Ohio's Alternative Regulation Plan, as in effect on the Merger Closing Date, in the areas of subscriber eligibility, discounts, and eligible services. (See Opinion and Order, Application of the Ohio Bell Tel. Co. for Approval of an Alternative Form of Regulation, Case No. 93-487-TP-ALT, 1994 Ohio PUC LEXIS 956 [Nov. 23, 1994].) Specifically, with respect to discounts, SBC/Ameritech will provide a discount equal to the price of basic residential measured rate service (i.e., access to the network not including any local usage) in each state; provided, however, that the maximum discount to be provided (including all applicable Federal, state and Company contributions) shall not exceed \$10.20 per month. For example, if the current Lifeline discount in a state is \$8.00 per month, SBC/Ameritech will increase that discount by a maximum of \$2.20 per month for those Lifeline customers that meet all of the qualifications in this Paragraph. This Paragraph is not intended to supersede or eliminate state or federal funding for existing Lifeline programs. Where, for a particular state, SBC/Ameritech does not offer a basic measured rate service that does not include any local usage, to determine the amount of the discount, SBC/Ameritech will determine an estimated price for such a service as a percentage (based on underlying costs) of the most basic service that is offered. If the state commission indicates its acceptance of SBC/Ameritech's offer within 12 months of SBC/Ameritech's written offer, SBC/Ameritech shall file a tariff to implement its offer within 60 days of such acceptance. Subject to the requirements of state and

federal law, SBC/Ameritech shall maintain its enhanced Lifeline plan in effect in a state for no less than 36 months following the effective date of the initial tariff required by this Section. In Ohio, SBC/Ameritech shall offer, at the state commission's option, to extend Ameritech Ohio's USA Lifeline plan until January 6, 2003. SBC/Ameritech shall offer to provide such enhanced Lifeline plans with the following operational characteristics:

a. Past-Due Bills. Enhanced Lifeline plan customers with past-due bills for local service charges will be offered payment arrangements for such local service charges with an initial payment not to exceed \$25.00 before service is installed and with the balance to be paid in 6 equal monthly payments. Enhanced Lifeline plan customers with past-due bills for toll service charges will be required to have toll restriction service until such past-due toll service charges have been paid.

b. Deposits. New enhanced Lifeline plan customers will not be required to pay a deposit to obtain local service. SBC/Ameritech may request a deposit for toll service unless the customer elects toll restriction service.

c. Verification of Eligibility. SBC/Ameritech will provide prospective enhanced Lifeline plan customers with a written form that will permit the customer to self-verify eligibility through participation in one or more of the qualifying programs. SBC/Ameritech will have the right to audit any such self-verifications and to refuse enhanced Lifeline service to any customer that is not a current participant in one of the eligible programs. SBC/Ameritech will provide quantities of such written forms to state agencies administering qualifying programs so that these agencies, if they choose, can make these forms available to their clients.

d. On-Line Verification of Eligibility. SBC/Ameritech will negotiate in good faith with appropriate state agencies administering qualifying programs to acquire on-line access to the agencies' electronic databases for the purpose of accessing the information necessary to verify a customer's participation in an eligible program. Where such on-line access can be negotiated on reasonable terms and conditions that permit SBC/Ameritech to access such information efficiently, SBC/Ameritech will provide on-line verification of eligibility for a customer claiming (during a discussion with an SBC/Ameritech service representative) to be a current participant in one of the eligible programs.

e. Publicity. SBC/Ameritech will agree to spend no less than an annual promotional budget to make potential customers aware of the enhanced Lifeline plan or other programs that benefit low income consumers. The annual promotional budget for each state is calculated to be proportionate (based on the relative number of residence access lines that SBC/Ameritech has in service in each state) to the \$122,000 annual promotional budget established as part of the USA Lifeline Plan in Ohio. The annual promotional budget, by state, will be: Arkansas – \$30,000; California – \$488,000; Connecticut – \$68,000; Illinois – \$184,000; Indiana – \$64,000; Kansas – \$39,000; Michigan – \$154,000; Missouri – \$78,000; Nevada – \$12,000; Oklahoma – \$50,000; Texas – \$270,000; Wisconsin – \$62,000.

f. Toll-Free Number for Lifeline Inquiries. SBC/Ameritech will provide a toll-free telephone number (e.g., an 800 number) for current and potential enhanced Lifeline plan

customers to call for subscribing to, or otherwise requesting information or assistance about, the enhanced Lifeline plan.

g. Toll-Free Fax Line for Receiving Lifeline Documentation.

SBC/Ameritech will provide a toll-free fax line for current and potential enhanced Lifeline plan customers to submit documentation associated with the enhanced Lifeline plan.

h. Lifeline Message on Voice Response Units ("VRUs"). Where

SBC/Ameritech utilizes a VRU to answer customer calls into a service center, SBC/Ameritech will, where it is technically possible to do so, include information about the enhanced Lifeline plan on the VRU menu after the customer indicates an interest in obtaining new service.

i. Upgrading Current Lifeline Customers. Where a state that already has a

Lifeline plan determines to offer the enhanced Lifeline plan described in this Paragraph, and where the enhanced Lifeline plan offers a larger discount and in all other respects no worse terms and conditions to an existing Lifeline customer, SBC/Ameritech shall switch qualifying customers (i.e., customers who have provided SBC/Ameritech with sufficient verification that they participate in a qualifying program) to the enhanced Lifeline plan within 180 days of implementing the enhanced Lifeline plan.

XXIV. Additional Service Quality Reporting

62. Beginning no later than 90 days after the Merger Closing Date for the SBC/Ameritech Service Area in all SBC/Ameritech States except California and Nevada, and beginning no later than 180 days after the Merger Closing Date for the SBC/Ameritech Service Area in California and Nevada, SBC/Ameritech shall file with the Reporting Management Staff of the Commission for the public record, on a quarterly (i.e., January-March, April-June, etc.) basis, state-by-state service quality reports in accordance with the retail service quality reporting recommendations of the NARUC Technology Policy Subgroup "Service Quality White Paper" adopted November 11, 1998. Answer time performance may be reported on a multi-state basis in accordance with the consolidated handling of some calls by SBC/Ameritech call centers. Each such quarterly report shall be filed no later than 50 days after the end of the quarter covered by the report. The first report filed for each state shall cover the most recent quarter that ended at least 50 days prior to the date the report is due. Categories of reporting for retail services include installation and maintenance, switch outages, transmission facility outages, service quality-related complaints, and answer time performance. Reports shall be filed for a period of 36 months following the date of SBC/Ameritech's first report for that state. A copy of each report for a state shall be included on an SBC/Ameritech Internet website or provided to the relevant state commission.

63. SBC/Ameritech shall report on a quarterly basis ARMIS local service quality data required by the Commission separately for each of its operating companies. SBC/Ameritech shall provide service quality data in accordance with Table 1 of ARMIS Report No. 43-05 on a quarterly basis. The service quality data required by this Paragraph shall be included on an SBC/Ameritech Internet website or made available to state commissions in the SBC/Ameritech States.

XXV. NRIC Participation

64. SBC/Ameritech shall continue to participate in the Network Reliability and Interoperability Council ("NRIC"), or a successor organization, if any.

ENSURING COMPLIANCE WITH AND ENFORCEMENT OF THESE CONDITIONS

XXVI. Compliance Program

65. SBC/Ameritech shall establish a Compliance Program as follows:

a. SBC/Ameritech shall appoint a corporate officer to oversee SBC/Ameritech's implementation of, and compliance with, these Conditions; to monitor SBC/Ameritech's compliance program and progress toward meeting the deadlines specified herein; to provide periodic reports regarding SBC/Ameritech's compliance as required by these Conditions; to ensure that payments due under these Conditions are timely made; and to consult with the Chief of the Common Carrier Bureau and other appropriate individuals as the Chief deems necessary on an ongoing basis regarding SBC/Ameritech's compliance with these Conditions. The corporate compliance officer shall provide copies of all notices SBC/Ameritech provides to the Commission or a state commission to the independent auditor required under Paragraph 66 and shall consult with the independent auditor regarding SBC/Ameritech's progress in meeting the deadlines and milestones specified in these Conditions. The audit committee of SBC/Ameritech's Board of Directors shall oversee the corporate compliance officer's fulfillment of these responsibilities. The requirements of this Subparagraph shall remain in effect until all other Conditions of this Appendix have expired.

b. Not later than 60 days after the Merger Closing Date, SBC/Ameritech shall submit to the Audit Staff for review and comment a plan for compliance with these Conditions. The compliance plan shall be afforded confidential treatment in accordance with the Commission's normal processes and procedures. A letter providing notice of the filing shall be filed the same day with the Secretary of the Commission for the public record.

c. Following the Merger Closing Date, SBC/Ameritech shall submit to the Audit Staff and file for the public record (except for materials for which confidential treatment is requested) an annual compliance report detailing SBC/Ameritech's compliance with these Conditions during the preceding calendar year. This annual compliance report shall be submitted no later than March 15 (or the first business day thereafter) of the calendar year following the year covered by the report. A report shall be filed for each calendar year in which SBC/Ameritech is subject to obligations under other Sections of these Conditions. The annual compliance report shall address SBC/Ameritech's compliance with these Conditions and the sufficiency of SBC/Ameritech's internal controls for complying, shall include a discussion of the efficiencies realized as a result of the merger, and shall be prepared in a format substantially similar, in relevant respects, to the format of the independent auditor's section of the audit report described in Subparagraph 66f, below.

XXVII. Independent Auditor

66. SBC/Ameritech shall, at its own expense, annually engage an independent auditor to conduct an examination engagement resulting in a positive opinion (with exceptions noted) regarding SBC/Ameritech's compliance with all these Conditions and the sufficiency of SBC/Ameritech's internal controls designed to ensure compliance with such Conditions, except as noted in Paragraph 67, below. SBC and Ameritech shall jointly engage an independent auditor for this purpose prior to the Merger Closing Date. The engagement shall be supervised by persons licensed to provide public accounting services and shall be conducted in accordance with the relevant standards of the AICPA. The independent auditor shall be acceptable to the Chief of the Common Carrier Bureau and shall not have been instrumental during the past 24 months in designing all or substantially all of the systems and processes under review in the audit, viewed as a whole. An independent auditor's report shall be filed for each calendar year in which SBC/Ameritech is subject to obligations under other Sections of this Appendix, provided that no report shall be due if that report would cover a portion of a calendar year that is less than 60 days. In that event, the period of less than 60 days shall be audited in the report covering the subsequent calendar year, if any. The independent auditor's report (which may consist of multiple reports) shall be prepared and submitted as follows.

a. Not later than 45 days after the Merger Closing Date, the independent auditor shall submit a preliminary audit program, including the proposed scope of the audit and the extent of compliance and substantive testing, to the Audit Staff. The preliminary audit program shall be afforded confidential treatment in accordance with the Commission's normal processes and procedures. The independent auditor shall consult with the Audit Staff and SBC/Ameritech regarding changes to the preliminary audit program, but Commission approval shall not be required.

b. During the course of the audit, the independent auditor shall inform the Audit Staff of any revisions to the audit program; notify the Audit Staff of any meetings with SBC/Ameritech in which audit findings are discussed; and consult with the Common Carrier Bureau regarding any accounting or rule interpretations necessary to complete the audit. The independent auditor shall notify SBC/Ameritech of any consultation with the Common Carrier Bureau regarding accounting or rule interpretations.

c. The independent auditor shall have access to books, records, and operations of SBC/Ameritech and its affiliates that are under the control of SBC/Ameritech and are necessary to fulfill the audit requirements of this Section. The independent auditor shall notify SBC/Ameritech's compliance officer of any inability to obtain such access. The auditor may notify the Audit Staff if access is not timely provided after notification to the compliance officer.

d. The independent auditor may verify SBC/Ameritech's compliance with these Conditions through contacts with the Commission, state commissions, or SBC/Ameritech's wholesale customers, as appropriate.

e. The independent auditor may consult with SBC/Ameritech's corporate compliance officer concerning matters that arise during the course of the year regarding these Conditions. If necessary after such consultation, the independent auditor may notify the Audit Staff of these matters. No later than September 1 (or the first business day thereafter) of the year following the calendar year covered by the audit, the independent auditor shall submit its final audit report for the preceding year to the Audit Staff. The independent auditor's report shall be made publicly available.

f. The independent auditor's report(s) shall include a discussion of the scope of the work conducted; a statement regarding SBC/Ameritech's compliance or non-compliance with these Conditions; a statement regarding the sufficiency of SBC/Ameritech's internal controls for complying with these Conditions; a statement regarding the accuracy of SBC/Ameritech's annual compliance report for the year covered by the audit; a statement regarding the timeliness and accuracy of the notices provided to the Commission or its staff pursuant to specific notification requirements of these Conditions; a statement regarding the accuracy and completeness of the performance data provided to telecommunications carriers and regulators under these Conditions; and a description of any limitations imposed on the auditor in the course of its review by SBC/Ameritech or other circumstances that might affect the auditor's opinion.

g. For 24 months following submission of the final audit report, the Commission and state commissions in the SBC/Ameritech States shall have access to the working papers and supporting materials of the independent auditor at a location in Washington, D.C. that is selected by SBC/Ameritech and the independent auditor. Copying of the working papers and supporting materials by the Commission shall be allowed but shall be limited to copies required for the Commission to verify compliance with and enforce these Conditions. Any copies made by the Commission shall be returned to SBC/Ameritech by the Commission. The Commission's review of the working papers and supporting materials shall be kept confidential pursuant to the Commission's rules and procedures. Prior to obtaining access to the working papers and supporting materials, state commissions shall enter into a protective agreement with the Chief of the Common Carrier Bureau and SBC/Ameritech under which the state commission's review, including any notes, shall be kept confidential.

h. Not later than 60 days following submission of the final audit report, SBC/Ameritech and the Audit Staff shall meet and confer regarding changes to the detailed audit program for the subsequent year's audit.

67. SBC/Ameritech shall, at its own expense and under the same retention timetable set out in Paragraph 66, annually engage an independent auditor to perform an agreed-upon procedures engagement regarding compliance with the separate Advanced Services affiliate requirements of Section I of these Conditions. The independent auditor shall be acceptable to the Chief of the Common Carrier Bureau and shall not have been instrumental during the preceding 24 months in designing all or substantially all of the systems and processes under review in the audit, viewed as a whole. The independent audit shall be supervised by persons licensed to provide accounting services and shall be conducted in accordance with the relevant standards of the AICPA. For purposes of the engagement required by this Subparagraph, the Commission

and SBC/Ameritech shall be the only specified users; the Chief of the Common Carrier Bureau and SBC/Ameritech must both consent to the audit methods and procedures to be used; and the independent auditor must accept those methods and procedures. In the event such mutual consent cannot be obtained, an independent third-party panel of auditors will be selected by SBC/Ameritech and the Chief of the Common Carrier Bureau to arbitrate any dispute. An independent auditor's report shall be filed for each calendar year in which SBC/Ameritech is subject to separate affiliate obligations under Section I, provided that no report shall be due if that report would cover a portion of a calendar year that is less than 60 days. In that event, the period of less than 60 days shall be audited in the report covering the subsequent calendar year, if any. **[In the event that the Merger Closing Date is later than November 1, 1999, the implementation schedule for the agreed-upon procedures engagement required by this Paragraph shall be revised as follows: (i) the independent auditor shall perform an agreed-upon procedures engagement in accordance with the requirements of this Paragraph for the first six months after the Merger Closing Date, and shall submit a report for this audit no later than September 1, 2000, and (ii) the subsequent regularly scheduled agreed-upon procedures engagement shall not cover the first six months after the Merger Closing Date.]** The independent auditor's report shall be prepared and submitted as described in Subparagraphs 66b-h, above, provided that SBC/Ameritech and the Chief of the Common Carrier Bureau, working with the independent auditor selected by SBC/Ameritech, shall make good-faith efforts to determine the procedures to be used in the engagement no later than 90 days after the Merger Closing Date. In determining the procedures to be used, SBC/Ameritech and the Chief of the Common Carrier Bureau shall give due consideration to the procedures established for biennial audits under 47 U.S.C. § 272(d).

XXVIII. Enforcement

68. The specific enforcement mechanisms established by these Conditions do not abrogate, supersede, limit, or otherwise replace the Commission's powers under the Communications Act. Performance or non-performance of these Conditions by SBC/Ameritech does not in itself constitute compliance or non-compliance with any federal, state, or local law or regulation, except SBC/Ameritech's obligation to perform these Conditions. The payments for non-performance specifically required by these Conditions, to which SBC/Ameritech has voluntarily agreed, are payments in the public interest and are not penalties, forfeitures or fines.

69. If the Commission makes a determination that SBC/Ameritech has during the effective period of a Condition failed to comply with that Condition, the Commission may, at its discretion, extend the effective period of that Condition for a period that does not exceed the period during which SBC/Ameritech failed to comply with the Condition. If the failure to comply that causes the Commission to extend a Condition also has had the effect of denying a person or entity access to a facility or service or the intended benefit required to be provided under another of these Conditions, the Commission may, in its discretion, extend the period during which SBC/Ameritech is required to comply with the other Condition for a period that does not exceed the period during which access to the facility or service or intended benefit was unavailable.

70. SBC/Ameritech shall be strictly obligated to make the payments for non-performance specifically required by these Conditions, and no showing of a willful violation

shall be necessary in order to enforce such payments. SBC/Ameritech shall not be liable for any payments, however, if the Commission grants a waiver request filed by SBC/Ameritech in which SBC/Ameritech will have the burden of proof to demonstrate that the failure to meet a condition was caused by a force majeure event or an Act of God.

71. Except as otherwise provided in these Conditions, SBC/Ameritech shall make payments due under these Conditions within 10 business days of a determination by SBC/Ameritech's compliance officer, the Commission, or an arbitrator, that payment is due. If the Commission or a state commission has not taken an action to designate or administer a fund that is required in order for SBC/Ameritech to make a payment required under these Conditions, SBC/Ameritech shall make its payment into an interest bearing escrow account pending such action. If SBC/Ameritech's obligation to make a payment is disputed by SBC/Ameritech, SBC/Ameritech shall make the disputed payment into an interest bearing escrow account within 10 business days of the date the payment was due. Within 10 business days of making a payment of a disputed amount into escrow, SBC/Ameritech shall file with the Commission a verified statement of the grounds on which payment is not required. Subject to rights of rehearing and appeal, the escrowed payments (including any accrued interest) shall be returned to SBC/Ameritech or paid to the appropriate fund in accordance with the final and non-appealable Commission or judicial order resolving the dispute.

72. The Commission may in its discretion, upon a request and showing of [good cause by] SBC/Ameritech, grant extensions of deadlines established by these Conditions.

73. SBC/Ameritech shall not be excused from its obligations under these federal Conditions on the basis that a state commission lacks jurisdiction under state law to perform an act specified or required by these Conditions (e.g., review and approve interconnection agreement amendments, or determine if telecommunications providers violate requirements associated with the promotional discounts).

XXIX. Sunset

74. Except where other termination dates are specifically established herein, all Conditions set out in this Appendix, except for the Conditions requiring SBC/Ameritech to provide Advanced Services through one or more separate affiliates, as set out in Section I, shall cease to be effective and shall no longer bind SBC/Ameritech in any respect 36 months after the Merger Closing Date, unless the Commission orders that a Condition or Conditions be extended for noncompliance reasons in accordance with Paragraph 69 above. The Conditions requiring SBC/Ameritech to provide Advanced Services through one or more separate affiliates, as set out in Section I, shall cease to be effective and shall no longer bind SBC/Ameritech in any respect after the events and under the terms stated in Paragraph 12 above. Unless specifically stated otherwise, it is intended that each of the Conditions will generate 36 months of benefit. Since some of the Conditions will not become effective or operational until sometime after the Merger Closing Date, such conditions will remain in effect (as specified) longer than 36 months after the Merger Closing Date.

XXX. Effect of Conditions

75. The various offerings and initiatives contained in these Conditions, including but not limited to the carrier-to-carrier promotions, OSS requirements, and performance monitoring conditions, may substantially duplicate requirements imposed in connection with the merger under state law. These Conditions shall supplement, but shall not be cumulative of, substantially related conditions imposed under state law. Where both these Conditions and conditions imposed in connection with the merger under state law grant parties similar rights against SBC/Ameritech, affected parties shall not have a right to invoke the relevant terms of these Conditions in a given state if they have invoked a substantially related condition imposed on the merger under state law. For example, telecommunications carriers requesting unbundled local loops for residential service under promotional terms offered pursuant to state approval of the merger would not also be able to invoke the promotional discounts on unbundled loops required by these Conditions. Furthermore, any unbundled local loops provided by SBC/Ameritech for residential service under a substantially similar merger-related state commission imposed promotion in a given state would be deducted from the number of unbundled local loops required to be provided in that state under Section XIV of these Conditions. This Section shall not limit the Commission's powers to enforce these Conditions or the reporting requirements of SBC/Ameritech under these Conditions.

76. When considering a request by SBC/Ameritech for in-region, interLATA authority under 47 U.S.C. § 271, the Commission – in view of the public interest benefits inherent in compliance with the requirements of 47 U.S.C. § 271(d)(3) – shall not consider the possible expiration of any of the above Conditions per the terms of this Appendix to be a factor that would render the requested authorization inconsistent with the public interest, convenience, and necessity.

ATTACHMENT A

CARRIER ~~INTERCONNECTION~~ [TO-CARRIER] PERFORMANCE PLAN

1. SBC/Ameritech shall provide the Commission with performance measurement results, on a monthly basis in an Excel spreadsheet format, demonstrating SBC/Ameritech's monthly performance provided to the aggregate of all CLECs in the SBC/Ameritech Service Area within each of the 13 SBC/Ameritech States, as compared to SBC/Ameritech's retail performance (where applicable) or as compared to a benchmark. SBC/Ameritech shall also provide the Commission, state commissions in the SBC/Ameritech States, and CLECs with access to SBC/Ameritech's Internet website, where these parties can obtain performance measurement results demonstrating SBC/Ameritech's monthly performance provided to the aggregate of all CLECs, as compared to SBC/Ameritech's retail performance (where applicable). SBC/Ameritech shall also provide the CLECs with access to SBC/Ameritech's Internet website where a CLEC can obtain performance measurement results demonstrating SBC/Ameritech's monthly performance provided to that same CLEC on an individual basis. All such CLEC-specific data shall be made available, subject to protective agreements, to the Commission on SBC/Ameritech's Internet website, and will be made available for review, subject to protective agreements, by state commissions in the SBC/Ameritech States.

2. SBC/Ameritech's implementation of the Plan does not limit either the Commission's or the states' authority regarding performance monitoring, in the context of applications for in-region, interLATA relief under 47 U.S.C. § 271 or otherwise.

3. The performance measurements, benchmarks, and statistical methods utilized in the Plan were based upon those developed in the Texas and California collaborative processes involving SBC/Ameritech's applications for in-region interLATA relief. The performance measurement business rules in Attachment A-2a differ from those approved by the Texas state commission in the following respects:

- a. The Plan requires payments to be made to the U.S. Treasury on Measurements #4d, 7, and 13b at the Low level, while in the Texas plan no payments to the Texas State Treasury are made on these measurements;
- b. The benchmark for Measurement #1 in the Plan does not require the average of the remainder to be within 20% of the benchmark;
- c. Measurement #16 in the Plan includes additional disaggregation for LNP and LNP with loop;
- d. The benchmark for Measurement #19 is 99% in the Plan, and 99.5% in the Texas plan; and
- e. A benchmark is included for Measurement #2 in the Plan, but is yet to be determined in the Texas plan.